

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, September 5 2024, at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT:** Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** August 15, 2024
6. **SUBCOMMITTEE**
WOSP-5-2024 Vito Lombardo, 10 Route 206, Block 42 Lot 112, VB Zone
Application to change uses in retail space and update sign
7. **NEW BUSINESS**
Z08-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone
Application for construction of a new single-family dwelling
****CARRIED TO 10/03****

Z01-2024 Tom Chamberlin, 2 Briar Lane, Block 365.02 Lot 1, R-3 Zone
Application for driveway expansion for a second driveway
****CARRIED TO 10/03****

SP6-2024 Highland Avenue Properties, Block 212 Lot 1, NC Zone
Application for proposed use of a landscape and irrigation contractor business
8. **DISCUSSION ITEM:** Affordable Housing Information
9. **DISCUSSION ITEM:** Revised Application and Checklist
10. **REPORTS FROM COMMITTEES**
Architectural Review Committee
Environmental Commission
Open Space
Township Council
11. **BILLS:** Maraziti and Falcon (13): \$3,622.50
12. **OPEN TO THE PUBLIC**
13. **ADJOURNMENT**

The Board Engineer and Planner are sworn in at the beginning of each year and are deemed to be under oath on a continuing basis.

CALL TO ORDER: Chairman Shivas called the meeting to order at 7:30 p.m.

ROLL CALL: Ms. Raffay, Mayor Rubenstein, Messrs. McElroy, Smith, Walsh, Chairman Shivas

Members Absent: Messrs. Proctor, Morytko, and Serrilli

Also Present: Engineer Cory Stoner, Attorney Andrew Brewer; Ms. Raffay filling in for Secretary

OPENING STATEMENT: Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.

FLAG SALUTE: led by Chairman Shivas

Mayor Rubenstein noted the Board Secretary is not present tonight. The meeting is being recorded, and he noted for those speaking to make sure they speak into the microphones.

MINUTES: August 1, 2024. Mr. McElroy motioned to approve the minutes, seconded by Mr. Walsh.

Ayes: Ms. Raffay, Messrs. McElroy, Walsh, and Chairman Shivas

Abstaining: Mayor Rubenstein, Mr. Smith

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

RESOLUTIONS

Z09-2024, Daniel Scully, 33 Allamuchy Trail, Block 144 Lot 135 and 136, R-5 Zone

Application to construct 3-bedroom dwelling on a property with three front yards

Chairman Shivas noted in the resolution is talks about a rear yard, but it is a side yard. Mr. Stoner said that should also be corrected where it discusses the setbacks. Mr. Walsh motioned to approve the resolution as amended, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. McElroy, Walsh, and Chairman Shivas

Abstaining: Mayor Rubenstein, Mr. Smith

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

SP7-2024, Vincent Dominach, 519 Stanhope Road, Block 343 Lot 4, NC Zone

Application for ramp and roof alterations

Mr. Walsh motioned to approve the resolution, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. McElroy, Walsh, and Chairman Shivas

Abstaining: Mayor Rubenstein, Mr. Smith

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

SP3-2024 Veolia, 8 Mountain Avenue, Block 43 Lot 206.02, R-5 Zone

Application for tank painting and temporary tank set-up

Mr. Walsh motioned to approve the resolution, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Mayor Rubenstein, Messrs. McElroy, Smith, Walsh, and Chairman Shivas

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

SP4-2024 Cartridge Actuated Devices (CAD), 40 Old Indian Spring Road, Block 362 Lot 4, Block 226 Lot 8.01, R1 Zone

Application for bringing site into conformance including trailer removal, addition of a new two-story building, and replacement of a building

Mr. Walsh motioned to approve the resolution, seconded by Mr. McElroy.

Ayes: Ms. Raffay, Messrs. McElroy, Smith, Walsh, and Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone

Denial of application for shed in the front yard

Mr. Walsh motioned to approve the resolution, seconded by Mayor Rubenstein.

Ayes: Ms. Raffay, Mayor Rubenstein, Messrs. McElroy, Smith, Walsh, and Chairman Shivas

Absent: Messrs. Proctor, Morytko, Serrilli

None opposed. Motion carried.

NEW BUSINESS

Z13-2024 Shawn Steffens, 99 Lake Drive, Block 249 Lot 89.02, R5 Zone

Application for second story addition and garage addition

Mayor Rubenstein stepped down from this application. Paul Ashworth was sworn in as the architect; he is licensed and his license is in good standing. He was deemed an expert. Shawn Steffens was sworn in as the applicant. He is looking to add a second story to the existing home, and add a garage area for storage, and a recreation room on top of it. Originally he wanted to go from a two-bedroom to three, but the County said the leech field is too small, so he is presenting a two-bedroom home. Chairman Shivas confirmed they won't have a full garage door, just a small door that no vehicles can go through. Mr. Steffens discussed the well with the County. Mr. Ashworth submitted **Exhibit A1**, a colorized version of Sheet A1, showing the current and proposed footprint. Mr. Ashworth reviewed the plan, and its setbacks and variances. He noted there is no basement, and the façade height is compliant. There are two bedrooms and an office space. They are proposing a recreation room. The proposed will match the existing lake community, with browns and greys. The garage door may be changed out for double-doors for recreation equipment. There are vaulted ceilings and no attic space. Chairman Shivas asked if there's a way to level the height so it's not ten feet; the height variance is needed because of the size of the first and second floor. He's not sure why they need that much space. Mr. Steffens said part of the reason is storage, because they won't have an attic. They wanted the first floor to have that height for the garage as well. They also want it to be aesthetically pleasing and have the first floor as an open concept. Mr. McElroy agreed with Chairman Shivas that he'd like to hear reasoning for the height. Mr. Steffens asked about reducing the height of the second story. Mr. Ashworth said he could adjust the heights. Mr. McElroy noted for the west side variance, they're already at zero; on the east side it looks like there's a lot of room. They're exacerbating the setback on the west; why can't this be moved to the east side? Mr. Ashworth noted the addition was shifted; the further it gets shifted in, the roof pitch goes on the trusses. They are load-bearing, and the further it gets moved, the deeper they need to be. Ms. Raffay noted an easement on the property; she asked if they'd need more room because of the additional story.

Mr. Ashworth noted there was a little pad with a shed, which is meant to be demolished. Mr. Steffens said when he moved in in 2011, there was a 10x10 shed that was falling down, so he took it down and put a 5x4 there, but never took the cement pad away. Ms. Raffay asked about how this fits with the neighboring homes. Mr. Ashworth said there are several houses on this road with additions. Mr. Steffens said it's a mix, and he made sure he wouldn't be blocking any views. Down the road there are bigger houses with garages. Ms. Raffay confirmed the setbacks are similar. Chairman Shivas noted landscaping, and the sea wall that covers most of that part of his property. He would like to see additional landscaping for runoff. Mr. Ashworth said they're willing to add landscaping. Chairman Shivas said they should put in a four-foot strip. Ms. Raffay asked about the driveway. Mr. Steffens said they're reducing it; when he moved in, it was changed for the septic. There were stones there making it more like a four-car strip, and in

discussing with the County, they're looking to reduce it to a two-car area. **Exhibit A2** was submitted, showing an email with the County. **Exhibit A3** was submitted, showing a markup of the plan, colored to show the grass areas. **Exhibit A4** was submitted, showing an engineering survey from 2010. Ms. Raffay confirmed they're removing the garage door because of the parking. Mr. Steffens said the goal is indoor storage. The County said it can't be a garage or have a garage door, because it can't be driven on. Mr. Stoner noted regarding the easement, that it is for maintenance to the house. It is noted that no new structure can be constructed in the easement. He confirmed no part of the expansion is in the easement. Mr. Stoner reviewed the variances. He asked what is unique about the property that justifies the variances, and how does it match the houses in the neighborhood. Mr. McElroy said this seems like a big house for the lot that it's on, and it's almost double the building coverage. Mr. Steffens said this is his forever home and community. He also wants the comfort of the space, and doesn't want it to be obnoxious, but rather match the other houses around the lake that are similar in size. Mr. Walsh asked if other designs were considered. Mr. Ashworth said they're following the lines of the existing building, so the issue is the taper of the lot. For hardships, it has a lot to do with the shape and location of the property and house. Mr. Steffens said it was built around 1954. Ms. Raffay confirmed the house on the right is 18-20 feet, and on the left it is around 20 feet. She noted it feels close when looking at the photos. Mr. Steffens noted they were conscious of not blocking views. There is a golf course nearby as well. Mr. Walsh confirmed he is no longer seeking the height variance.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Mr. Stoner noted he'll need a height certification. Chairman Shivas said they should also negotiate another few feet on the easement to help work on the house. Ms. Raffay said this is an easement for maintenance, so they may need more room for construction. Mr. Stoner said this should be a condition of approval. He asked about the foundation, making sure they won't take the entire house down. Mr. Ashworth said it seems sound so they'd only work on the areas with deterioration. Ms. Raffay confirmed if the foundation is removed they need to come back to the Board. Chairman Shivas confirmed they'll have an as-built drawing. Mr. Steffens will ask for a bigger easement and reduce the height. Mr. Walsh confirmed they need a silt fence for construction.

Mr. Walsh motioned to approve the application with the discussed conditions, seconded by Mr. Smith.

Ayes: Ms. Raffay, Messrs. McElroy, Smith, Walsh, Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Messrs. Proctor, Morytko, Serrilli

Motion carried. Mr. Brewer explained the appeal period.

Z14-2024 Rupesh Patel (Kyosis LLC), 1 Catalina Drive, Block 337 Lot 9.14, R2 Zone

Application for new home construction

Justin Carloni and Rupesh Patel were sworn in. Mr. Carloni's experience is in architecture. He noted Mr. Kolody is a civil engineer. Chairman Shivas noted Mr. Kolody is not present. Mr. Carloni said he studied at NJIT and worked in Manhattan, and moved into residential work. He worked in Tom's River and Aberdeen. He is not currently licensed in New Jersey; he works with a partner, and has one exam left. Mr. Brewer noted that if he were licensed, he would need to be accepted as an expert. Anyone can be an expert if they have training and expertise that aids the Board in understanding facts, but the Board doesn't need to accept him as an expert if he is not licensed. Chairman Shivas did not accept him as an expert at this time. Mr. Patel said he is from Central Jersey, and wants to live in a suburban area. He has been looking for a unique location and the area is beautiful. The cul-de-sac itself is unique, and the homes are custom and a reasonable size, though not huge. Mr. Carloni said they fit within the context of the need, but their lot is more condensed, so they need a side yard variance. Chairman Shivas asked if they

read the previous approval about the subdivision in this area. Mr. Patel was aware of the subdivision. Chairman Shivas said it was in front of the Board originally and was turned down, and then went to court. The property was eventually subdivided. He noted there is a conservation easement on the property. Mr. Carloni said that's probably why his lot is smaller. They're already not conforming because of the lot itself. Mr. Patel said in designing the home, they considered the easement, which pushed them further back in the lot and required a longer driveway. This increases the disturbance. There is not a full basement. The lot is narrow, so they can't build wide. Mr. Carloni discussed the height. He noted they don't want the garage to be considered a story, but if that needs to be considered as a variance, they'll work with it. Mr. Stoner said it may look like two stories on certain sides, but it is a third story. Mayor Rubenstein confirmed the variance is for stories, not height. Ms. Raffay reviewed the height calculations, and asked if the grade of the garage was accounted for. She asked how many cars can fit in the garages, and if there's a way to not dig out the whole façade to make it a story. Mr. Walsh confirmed it's only three stories on the garage side. Mr. Carloni said he was trying to cut down on variances so he made the roof more shallow. Mr. Patel said there are six potential bedrooms, and two have the possibility of converting to an office. The septic is approved for six bedrooms.

Mr. Patel noted the retaining wall is over four feet. Chairman Shivas said it'll need to be certified by an engineer. Mr. Stoner noted there are retaining walls that go around the back; there is a two-tiered wall to make up the grade. Mr. McElroy confirmed the square footage is close to 7,000 square feet, which is a lot bigger than ones in the area. He noted it could be cut back to get it within the building coverage. It's hard to allow for a house that size. Mr. Patel noted possibly removing a greenhouse. Ms. Raffay said the greenhouse is portable, with no foundation. She doesn't think that would be included in lot disturbance. Mr. Patel said he'd prefer to keep it all there because those items are common in a house of this size. The main reason they're going over is because the driveway is so long. Mr. McElroy said they're going over because of the size of the house. Mr. Stoner doesn't think the side yard needs a variance; with the R2 cluster development it seems to conform. He noted there is likely disturbance either way with the terrain and driveway length. The Board discussed the driveway. Mayor Rubenstein asked how they'll meet the building calculations. Mr. Stoner noted this includes anything disturbed. Mr. Carloni said he made an iteration of the proposal that conforms, which could be reviewed with Mr. Patel, to meet the building envelope. Mr. Patel noted another challenge is that he doesn't have a full basement, which would help with storage. Mr. Stoner said there's a lot of rock on the property. Mr. Carloni said they're not going to be blasting. Mayor Rubenstein said at 10 feet of rock, they'd end up blasting. Ms. Raffay asked if they did any test holes. Mr. Patel said it should have been done with the septic. Ms. Raffay said with the pool and seepage pits that may be a problem. Mr. Carloni said they need the reports to look into that more. Mayor Rubenstein said they should bring the civil engineer. Ms. Raffay noted she doesn't know what she's looking at when it comes to where things are being built. There are no calculations for seepage pits. Chairman Shivas said they need drawings for the walls. Mr. McElroy said if they're shrinking the size of the building coverage, it needs to show what that will look like. Ms. Raffay said there's no patios indicated, and asked about that coverage. There's no walkway back to the pool. They need to see what is being put on the property. Mayor Rubenstein noted the civil drawing doesn't show the patio projection. The columns look close to the septic, and may count towards coverage. Mr. Stoner said they're far enough to the side from the septic, and they form a sort of roof. Mr. Walsh said an engineer should present to help guide what's being reviewed. Mr. Stoner noted the columns need to be shown. Mr. Walsh added walkways should be shown. Mr. Stoner said stormwater calculations should be added. Ms. Raffay said the overflows should also be shown. Chairman Shivas said they should show how many trees will be removed.

Chairman Shivas opened to the public. Richard Mondragon was sworn in. He is one of the yards that face the empty property, and the grade goes up. One of his concerns is if things are clear-cut, he will receive

the runoff since it flows down to his property. Mayor Rubenstein confirmed he is on the side of the proposed driveway. Mr. Mondragon is also concerned about looking at the structure once it's built, and it blocking the light with the proposed size. It doesn't fit for the neighborhood, and is too large.

Eric Martino was sworn in. He noted he didn't have a lot of time to review this because they were notified two days ago, and some people weren't notified at all. He's concerned about the size of the structure. The average houses in the area are between 2,400 and 4,900 square feet. This is going to be close to his pool in the back yard. He built in the area nine years ago and was turned down with the first application to make things smaller. The proposed lot is all ledge-rock. Blasting it could crack the foundations and pools in the area. He had to make his house smaller on the side because they hit ledge rock. The house doesn't fit the criteria of the neighborhood. He is concerned about where the water is going. Mr. Carloni said they won't be blocking any sun. Mr. Patel said there are trees on that side. Chairman Shivas said they don't know how many trees will be removed.

Andrew Hattendorf was sworn in. He is next to Mr. Martino, and goes to the back of the lot. He has no issue other than the building size meets the expectation of the neighborhood. This is going to be quite extensive. The neighborhood is full of wildlife and trees that are important to them, and it's hard to imagine how that won't dramatically change. He wants to make sure the neighborhood maintains the value and feel. There is stone and stucco architecture, and this doesn't seem to fit the mold. If a property doesn't fit in it creates a value issue. Mr. Carlino asked about any covenants; Mr. Brewer said that's the applicant's job to research.

Dan Adams was sworn in. He lives straight back from where the proposed house would be. His main concern is the size and being down hill from it. It would take over the back yard. He wants to make sure it's up to code, and reiterate that it would feel out of place.

Chairman Shivas closed to the public.

Mr. Patel said he understands the issues with size. All the homes are unique. Building a bigger home elevates the value of their homes. Most of the homes in the area don't have a conservation easement and trees in the area. Their homes are closer to the roadway. They're trying to work around the issues. Ms. Raffay said their engineer should speak about this. Mr. Carloni said people's concerns are that it's big, but that brings value and adds it to their homes. Mr. McElroy said value is not a reason for the application; it can't be considered. Mr. Patel said he can't build much of a basement either. Ms. Raffay said that happens in a lot of places. Mr. Patel said he wants to have that storage space. Chairman Shivas asked how long it'd take to get an engineer to attend. Mayor Rubenstein confirmed Mr. Patel is planning to live in the house.

Mr. McElroy motioned to carry the application to 09/19 without further notice, seconded by Mr. Walsh.

Ayes: Ms. Raffay, Mayor Rubenstein, Messrs. McElroy, Smith, Walsh, Chairman Shivas

Absent: Messrs. Proctor, Morytko, Serrilli

Motion carried. Chairman Shivas announced that if this application needs to be carried from 09/19, they will announce it, but new noticing is not required.

SP8-2024 North Shore Water Association, 28 Allamuchy Trail, Block 148 Lot 168, R5 Zone

Application for new sanitary system for PFAS treatment, including lot subdivision and preliminary and final site plan

Ursula Leo from Laddey, Clark, and Ryan represented the applicant. This application has to do with PFAS and a new water treatment facility. They are seeking preliminary and final amended site plan approval, a lot line adjustment, and because it's an existing home, a use variance for two principal

buildings on the lot. Mayor Rubenstein stepped down from this application, as it has a D variance. Michael McAloon was sworn in at Suburban Consulting Engineers, and has worked there for over 10 years. He is an engineer; he is familiar with this project and has overseen its design. He has presented in Byram and Andover on wastewater projects. He was deemed an expert.

Mr. McAloon reviewed the site. They determined that the site was absent of features under DEP regulation. There are 35 water service connections which serve around 105 people. This is phase two of the program; phase one is replacing the water mains. Mr. Walsh confirmed the 105 is the population, and the homes are 35. The existing system is impacted by an emerging contaminant, perfluorooctanesulfonic acid (PFOS), which is part of the group of substances known as PFAS. This system has received the maximum contaminant levels since quarter 4 of 2021. The DEP issued a consent order, which is a legal agreement outlining the necessary improvements to restore drinking water quality. Their implementation date is December 31 of 2024. Ms. Leo confirmed the Association doesn't have an option—they have to upgrade their system. Mr. McAloon said currently the existing water treatment system is in a structure beneath an existing shed. The equipment has exceeded its usable life.

Mr. McAloon reviewed the plans. The control panel is in poor condition, and the facility doesn't conform to DEP standards. There is no emergency power. The below-grade portion is considered a confined space. The proposed equipment can't be accommodated within the existing footprint. There's not enough room on the main level of the shed, so they're proposing to build an at-grade facility for the equipment. With agreements from the owner of 28 Allamuchy, they obtained an easement, and the two lots for the facility will be merged at the end of the project. Mr. McAloon reviewed the floor plan and treatment system. Chemical deliveries will be operated through container transfers, so personnel will bring in drums of material. There are emergency eyewash bottles nearby. The storage is proposed to be a minimum of 10 times the pumping capacity, in the event of a power failure. There will also be an analyzer to make sure potable drinking water is provided. This requires new electrical service. He reviewed the elevation view. The site slopes from back to front. The exterior will be vinyl siding with an asphalt shingle roof, with neutral colors. This is an un-manned facility, which will be visited daily or weekly by maintenance personnel, and as needed, laboratory personnel for sampling. There will be no dedicated parking on site. Visiting personnel will park as close as possible to the facility. They anticipate that there will need to be a replacement annually depending on water quality. A larger utility truck will be needed for this. They're proposing a diesel generator so there will be diesel deliveries in a similar size vehicle. Mr. McElroy asked the types of vehicles used for construction. Mr. McAloon said a mini-excavator will be sufficient. The contractor will have larger deliveries, but should be satisfied with a tri-axel straight truck. They anticipate minimal trash, but can be disposed of by personnel. There is one exterior wall-mounted light for site lighting for maintenance. This will only be used when accessing the generator. They are proposing four trees, which will be planted when the project is completed. These include three swamp white oaks and one northern white oak. With their agreement with 28 Allamuchy, they asked for a split-rail fence along the property line. The generator will be equipped with a noise-reducing enclosure. Ms. Leo confirmed a generator is required. Chairman Shivas asked if the generator tests itself. Mr. McAloon said they are committed to running it only during the day on a monthly basis. Ms. Raffay asked about the dry well. Mr. McAloon said an analyzer has a small amount of water that's used. There's no septic on site and no sanitary sewers on the street, so they will discharge the water through the drywell. Ms. Raffay asked if the size is needed. Mr. McAloon said they're being overly conservative, knowing there's rock out there. Ms. Raffay confirmed it is clean, potable water that goes through there.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Alexandra Handal was sworn in as an engineer and planner. Her licenses are in good standing. She has testified in West Caldwell, Montclair, and Florham Park. She reviewed the variances. The proposed facility will be relocated to the southern corner, within an easement. The design will mimic the area and blend in. Minimal earthwork and grading is needed. A D variance is needed for two principal structures. They need a PFAS removal system and an emergency generator. This project serves the public good, so it is inherently beneficial. There is an existing well. Moving the facility closer to the well is more effective and produces the least impact to the surrounding developments. There's a smaller building footprint. This project conforms with the Master Plan. The existing building isn't large enough to allow the existing facility to operate while the new system is being constructed, so the existing system will be online until the new one is constructed, so a new location is needed. If the application is denied, no improvements would be made. Chairman Shivas confirmed when the existing well is destroyed, the hole will be backfilled and brought back to a natural surface. Mr. Stoner noted the trees being planted are proposed because the homeowner requested it. He asked if the homeowner can remove the trees. Mr. McAloon said he personally doesn't want it to be that the trees need to be maintained forever, in case the homeowner moves. Mr. Stoner confirmed the justification for the two principal structures is because they're not creating a new lot, and there is an easement. Ms. Handal said that lot will be removed and they're relocating the structure to the easement. The facility has historically existed.

Chairman Shivas opened to the public and no one spoke so he closed to the public.

Ms. Leo asked to waive the resolution so they can move ahead with the timeline. She acknowledged this is at the applicant's own risk. Ms. Raffay asked if they have to go through the process to file a subdivision. Ms. Leo said the easement is already done, but when they change the lot line, they will need to record the deed.

Mr. McElroy motioned to approve the application, seconded by Mr. Walsh.

Ayes: Ms. Raffay, Messrs. McElroy, Smith, Walsh, Chairman Shivas

Abstaining: Mayor Rubenstein

Absent: Messrs. Proctor, Morytko, Serrilli

Motion carried. Mayor Rubenstein rejoined the meeting.

OPEN TO THE PUBLIC

Chairman Shivas opened to the public and no one spoke so he closed to the public.

REPORTS FROM COMMITTEES

Architectural Review Committee: Mr. Morytko was not present to represent this.

Environmental Commission: Mr. McElroy said the meeting is in two weeks.

Open Space: Mr. Morytko was not present to represent this.

Township Council: Mayor Rubenstein said they talked about Sutton Lane; they found out it's not a road, but an easement across state land for access to the houses. They have been plowing it for fifty years, but won't be plowing it anymore. They awarded the bid to Green Valley for the tennis courts. One will be lined for a pickleball court. Some of the funds will be paid for by local recreation grants. They started the 2025 budget discussion.

Zoning Report: Everyone has a copy.

ADJOURNMENT

A motion to adjourn the meeting was made at 10:24 by Mr. McElroy, seconded by Mr. Walsh. All were in favor. Motion carried. The meeting was adjourned.

Respectfully submitted by Caitlin Phillips

Resolutions Approved at Previous Meeting

In the matter of Daniel P. Scully
Case No. Z09-2024
MF#5000.111

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED:

Front Yard Setback
Side Yard Setback
Principal Building Coverage
Principal Building Height

WHEREAS, Daniel P. Scully has applied to the Planning Board of the Township of Byram seeking approval to construct a three-bedroom home on premises located at 33 Allamuchy Trail, and known as Block 144, Lot 135 and 136 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

{381372.DOC.1}1

1. The Applicant was represented by Michael Mullin, Esq. of Schenck, Price, Smith and King, LLP.
2. The Applicant is the owner of the subject property and is proposing to construct a single-family home, requiring the following relief from the Township's Zoning Ordinance:
 - a. Section 240-55C(2) and 240-14 – Minimum front yard setback: 45 feet required and 8.4 feet proposed.
 - b. Section 240-55C(3) – Minimum side yard setback: 15 feet required, 9.6 feet proposed.
 - c. Section 240-55(7) – Maximum building height: 2½ stories permitted, 3 stories proposed.
 - d. Section 240-50.1 – Maximum building coverage: 1,173.15 square feet permitted, 2,088.21 feet proposed.
3. The Applicant submitted the following documents along with the Application for a Variance:
 - a. Plot Plan, prepared by PVA Architect, dated February 11, 2024, revised through March 19, 2024, consisting of three (3) sheets.
 - b. Variance Plan, prepared by Dykstra Associates, dated March 11, 2024.
 - c. Survey of the Property, Dykstra Associates, dated May 15, 2021.
 - d. Tax Map, prepared by Harold E. Pellow, PE and LS, dated June 2006, Sheet 3.02.
 - e. Photos of the Site, dated March 20, 2024, marked Photo A through D.

{381372.DOC.1}2

- f. Municipal Highlands Exemption Determination Application, dated March 1, 2024.
 - g. Deed from Knudsen to Knudsen, dated August 18, 1972, recorded in the Morris County Clerk in Book 908, Page 264.
 - h. Description, Limit of Disturbance, Tax Lots 135 and 136, Block 144.
- 4. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, Engineering Report, dated May 8, 2024.
 - b. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, Highlands Exemption Determination, dated May 20, 2024.
 - c. Environmental Commission
- 5. The following were marked for identification:
 - a. A-1 – Site Plan with Highlighting
 - b. A-2 – Multi-State Listing, from 2013
 - c. A-3 – Multi-State Listing, from 2017
- 6. A duly noticed public hearing was conducted on August 1, 2024, at which time Jason Dunn, a professional planner and Paul Ashworth, an architect, were accepted as experts in their respective fields, and presented sworn testimony in support of the application. The subject property is a triangular shaped lot in the Cranberry Lake section of the Township, with approximately 155 feet of frontage on Greywood Lane and approximately 50 feet in depth. The subject property is comprised of two (2) lots that will be merged together, and has three front yards: Greywood Lane, where the house is situated,

{381372.DOC.1}3

Allamuchy Trail to the north and Ka-Ton-Ah Trail to the south. The lot contains the foundation from a single-family home, along with retaining walls and a septic system, but is otherwise currently vacant. There is a 22-foot change in elevation from south to north.

7. The Applicant is proposing to construct a three-bedroom, two-and-a-half-bathroom home similar to the style of the other homes in the neighborhood, with a covered porch and a gabled roof. The house will be 26 feet by 36 feet with a 12-foot by 20-foot one car garage. The front and side yard setbacks are a result of the shallowness of the lot. There is a 10-foot change in grade along the foundation of the home, exposing the foundation on the north side. The 3rd story, which requires a variance, is a result of the exposed basement. The patio and landscaping will mitigate the impact of the 3rd story. The lot is undersized, which creates the excess building coverage. The size, shape and topographic conditions of the property are all hardships for the construction of a single-family home.
8. There will be a 4-foot-high retaining walls on the north side of the house that break up the stone foundation. If the wall exceeds 4 feet, it will need to be designed by an engineer and permits must be obtained.
9. The existing retaining walls and gravel parking area will be removed and the overgrowth will be cleared. Additional foundation plantings will be consistent with the recommendations from the Environmental Committee and the approval of the Board's Planner.

{381372.DOC.1}4

10. The septic system is on the north side of the lot and the south side is the high side of the property and consists of bedrock, prohibiting the installation of a drainage system. The roof leaders will drain into a splash pad, which will also collect surface runoff. The roof leaders will be pitched toward Allamuchy Trail and Greywood Lane. The property will be graded toward Allamuchy Trail.
11. The main floor will consist of an open floorplan kitchen and living room with a master suite and a half bathroom. There will be center stairs to the 2nd floor which will have two (2) large bedrooms and a bathroom.
12. The property is serviced by public water. The house will be constructed on a foundation, but the garage will be slab on grade.
13. The façade will consist of vinyl siding with muted colors. There will be a walk-out sliding door on the northern side of the home.
14. The property is located in the Highlands Preservation Area and the house will be constructed under Highlands Exemption #2, which permits the construction of a single-family home.
15. No one from the public was in attendance for this hearing.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Board determined that Relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - a. Section 240-55C(2) and 240-14 – Minimum front yard setback: 45 feet required and 8.4 feet approved.
 - b. Section 240-55C(3) – Minimum side yard setback: 15 feet required, 9.6 feet approved.
 - c. Section 240-55(7) – Maximum building height: 2½ stories permitted, 3 stories approved.
 - d. Section 240-50.1 – Maximum building coverage: 1,173.15 square feet permitted, 2,088.21 feet approved.
2. N.J.S.A. 40:55D-70c(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
3. The lot is undersized, shallow and slopes from south to north, which creates a hardship for the Applicant to construct a conforming home. The construction

of the retaining wall and the landscaping will mitigate the impact of the 3rd story.

4. The Board determined that relief could be granted without having a negative impact on the surrounding area. The proposed home will be consistent with the neighborhood. The construction of the home is not inconsistent with the Master Plan or the Zone Scheme.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of August, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the professionals at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. The Applicant shall pay of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. The Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.

{381372.DOC.1}7

5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
6. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
7. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, whether specified herein or not, prior to seeking construction or zoning permits. Outside agency approvals include, but are not limited to:
 - a. Byram Township Construction Department
 - b. Byram Township Fire Subcode Department
 - c. Sussex County Health Department
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board Secretary and the Township Engineer an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and shall supply a copy of any approvals received.
9. Applicant shall pay a fee of 1.5% of the equalized assessed value of the approved residential dwelling unit, permitted in the Zone and an additional 6% for all units approved pursuant to N.J.S.A. 40:55D-70(d)(5), as determined by the Township's Tax Assessor, pursuant to Chapter 215, Article XIII of the Township's Ordinances.

{381372.DOC.1}8

10. Applicant shall obtain approval from the Sussex County Health Department for the septic system.
11. The Applicant shall merge the two lots, by Deed, to be recorded in the Sussex County Clerk's office.
12. The Board Engineer shall inspect the house during construction to confirm the height of the structure.
13. The foundation plantings shall be subject to the review and approval of the Board's Planner.
14. Any retaining wall that exceeds 4 feet in height shall be designed by an engineer and requires a construction permit
15. The survey and site plan reference Block 3602 and shall be updated to Block 144.



George Shivas

On motion of: Mr. Walsh

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Four (4): Ms. Raffay, Mr. McElroy, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Mr. Smith

ABSENT: Three (3): Mr. Proctor, Mr. Morytko, Mr. Serrilli

{381372.DOC.1}9

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 15, 2024.

Caitlin Phillips
**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/21/2024
Prepared by: Alyse Landano Hubbard, Esq.

{381372.DOC.1}10

In the matter of Vincent Dominach
Case No. SP7-2024
MF#5000.112

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Minor Site Plan

WHEREAS, Vincent Dominach has applied to the Planning Board of the Township of Byram seeking Minor Site Plan approval to construct a covered ramp and walkway for premises located at 519 Stanhope-Sparta Road, and known as Block 343, Lot 4 on the Tax Map of the Township of Byram which premises are in a “N-C” Neighborhood Commercial Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is proposing to operate a delicatessen the subject property. The owner, Sergiu Prola, consents to the application.

{381426.DOC.1}1

2. The Applicant is proposing to construct a covered walkway and ramp on the front of the existing structure, with an area for outdoor dining, which is a conditional use under Section 240-63C of the Township's Zoning Ordinance, which states:

Outdoor dining. The provision of food and drink as an addition or extension of a permitted principal use on a patio, deck or similar area outside the principal building is subject to site plan approval in accordance with this chapter and subject to the following standards:

- (1) The service of foods and beverages may be permitted outdoors as accessory to the permitted principal uses of restaurants, bars and taverns, brewpubs and microbreweries, banquet halls and catering facilities, bed-and-breakfasts, inns and hotels on the site provided that all of the following requirements are complied with.
- (2) Outdoor seating shall be included in any calculation of on-site seating capacity. This shall include on-site parking requirements, necessary sewer allocation, and/or on-site septic requirements. Indoor and outdoor seating combined shall not exceed the total approved seating capacity of the facility.
- (3) Outdoor reception areas where foods and beverages are served and that do not include seating may not exceed 50% of the total square footage of the facility.
- (4) Any outdoor service area must be in a defined area on the site and provide a minimum seventy-five-foot buffer area along any residential zoning district and 25 feet elsewhere. Additional screening, including fencing, may be required by the approving authority.
- (5) All exterior lighting fixtures in any outdoor service area shall be shaded to avoid casting direct light upon any adjoining property.

3. The Applicant submitted the following documents along with the Land Development Application:

- a. Architectural Drawings:

{381426.DOC.1}2

- i. Proposed Front Elevation, dated May 27, 2024, preparer unknown
 - ii. Proposed Patio Plan, dated May 27, 2024, preparer unknown
 - iii. Existing Front Elevation, undated, preparer unknown
 - iv. Front Elevation with Roof, undated, preparer unknown
 - v. Patio Plan, undated, preparer unknown
 - vi. Existing Patio Plan, dated May 27, 2024, preparer unknown
 - vii. Front Elevation with Roof, with roof and pillars hand drawn, undated, preparer unknown
 - b. Variance Plan, prepared by Kolody Engineering and Surveying, dated November 19, 1999, with the patio and ramp indicated in red.
4. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated July 2, 2024.
 5. A duly noticed public hearing was conducted on August 1, 2024, at which time Vincent Dominach presented sworn testimony in support of the application. The property is a square lot, with a residential home, a one-story garage, and a one-story frame building which was a delicatessen. The existing 812 square foot commercial structure has a ramp and patio in front with an ice machine.
 6. The Applicant is proposing to reopen the delicatessen and clean up the property. The existing ramp and patio will be removed and a new ramp and patio will be constructed that is compliant with the Americans with Disabilities Act (“ADA”). The patio will have outdoor seating for eight (8)

{381426.DOC.1}3

customers. A roof will cover the seating and the ramp and new railings will be installed.

7. There are two (2) parking stalls in front of the building, one of which is ADA compliant, and seven (7) parking stalls on the eastern side of the property, with curb stops. The delicatessen, with outdoor seating, requires six (6) parking stalls, so there is sufficient parking on site.
8. The existing historic home will remain on the property.
9. The variance plan that was submitted with the application was never approved by the Board and is inaccurate as to the driveway and site conditions. The Board's Engineer recommended that an As-Built Survey be submitted for his review.
10. The proposed hours of operation are 6:00 am to 3:00 pm.
11. With regard to the conditions for outdoor dining, the Applicant testified that the proposed site complies with Section 240-63C. The dining will be in a defined area on the patio and does not exceed 50% of the restaurant area. There is a sufficient parking and a buffer in excess of 25 feet. There is no additional lighting proposed and Applicant testified that the lighting does not cast onto the adjoining lots.
12. No one from the public was in attendance for this hearing.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

{381426.DOC.1}4

1. The Board found the witness testimony to be competent and credible. The Applicant testified that the proposed use and site is in compliance with the conditions set for in Section 240-63C. The Board determined that proposed ramp and patio area would be beneficial to the Applicant and the public, providing safe access in compliance with the ADA.
2. There are no variances associated with this application. There is sufficient parking on site for the use and the Applicant is cleaning up the property and renovating an existing, vacant structure.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of August, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. The Applicant shall pay of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.

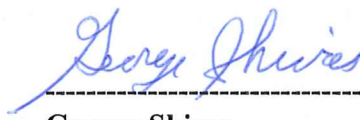
{381426.DOC.1}5

4. The Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
6. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
7. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, whether specified herein or not, prior to seeking construction or zoning permits. Outside agency approvals include, but are not limited to:
 - a. Sussex County Planning Board
 - b. Sussex County Health Department
 - c. Byram Township Construction Department
 - d. Byram Township Fire Subcode Department
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board Secretary and the Township Engineer an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and shall supply a copy of any approvals received.
9. The Applicant shall comply with Chapter 201 of the Township's Ordinances with regard to submitting the appropriate information and paying the

{381426.DOC.1}6

necessary fees, to obtain approval for sewer allocation and connection, if necessary.

10. An As-Built Survey shall be submitted subject to the review and approval of the Board's Engineer.
11. The outdoor dining area shall not exceed eight (8) customers.
12. The lighting shall not cast onto the adjoining lots.



George Shivas

On motion of: Mr. Walsh

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Four (4): Ms. Raffay, Mr. McElroy, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Mr. Smith

ABSENT: Three (3): Mr. Proctor, Mr. Morytko, Mr. Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 15, 2024.

Caitlin Phillips

Caitlin Phillips, Planning Board

Secretary

Dated: 08/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{381426.DOC.1}7

In the matter of Veolia Water NJ, INC
Case No. SP3-2024
MF#5000.023

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED:

Height of Accessory Structure
Maximum Footprint for Accessory Structure
Distance between Accessory Structures
Front Yard Setback
Rear Yard Setback

WHEREAS, Veolia Water New Jersey, Inc., has applied to the Planning Board of the Township of Byram seeking Site Plan Approval to install temporary water tanks and pump stations for premises located at 8 Mountain Avenue, and known as Block 43, Lot 206.02 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

{381145.DOC.2}1

1. The Applicant was represented by Mark Beck, Esquire of Florio Perrucci, et. al.
2. The Applicant is the owner of the subject property, which consists of a water tower and pump house for Veolia Water New Jersey (“Veolia”) that services a portion of the Township. The Applicant is proposing to decommission the current water tank to paint and rehabilitate it, necessitating the use of temporary water tanks and a pump station, with related equipment, while the current water tank is decommissioned. The temporary structures require relief, pursuant to N.J.S.A. 4-:55D-70(c) from the following Section of the Township’s Zoning Ordinance:
 - a. Section 240-55C(2) - Maximum Front Yard Setback: 35 feet required, 8 feet existing, 9’2” proposed.
 - b. Section 240-55C(4) - Maximum Rear Yard Setback: 20 feet is required, 16’1” proposed.
 - c. Section 240-16A(5) - Maximum Footprint of Accessory Structures: 50% permitted (225 feet), 80.2%proposed (410 feet).
 - d. Section 240-16B(1) - Minimum Distance Between Accessory Structures: 6 feet required, 0 feet proposed between temporary tanks.
 - e. Section 240-16A(4) – Maximum Height of Accessory Structure: 15 feet permitted, 16.25 feet proposed
3. The Applicant submitted the following documents along with the Application for a Variance and Land Development Application:

{381145.DOC.2}2

- a. Temporary Tank Provisions, prepared by Buck, Seifert & Jose, Inc., Consulting Engineers, dated April 5, 2024, consisting of four (4) Sheets.
 - b. Survey, prepared by Gardell Land Surveying, LLC, dated June 29, 2020.
 - c. Conceptual Plan, Temporary Tank Layout, prepared by Buck, Seifert & Jose, Inc., Consulting Engineers, dated November 2023.
 - d. Zoning Map, with Insets regarding Highlands Center and Planning and Preservation, adopted on June 20, 2018.
 - e. Flood Insurance Rate Map, prepared by the National Flood Insurance Program, Effective September 2011
 - f. Magnum Product, LLC, Water Trailer MWT500, Operating/Parts Manual, page 8, Specifications.
 - g. Highlands Preservation Area Exemption Determination, Exemption #11, dated May 21, 2024.
 - h. Letter from Buck, Seifert & Jose, Inc., Consulting Engineers, dated April 12, 2024.
 - i. Aerial and General Site Photographs, four (4) total
 - j. National Tank Outlet, with 8,500 gall Black Plastic Tank. Specifications
 - k. Tax Map, prepared by Harold E. Pellow, PE, PS, dated June 2006.
4. The Board received a memorandum from Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated May 10, 2024.

{381145.DOC.2}3

5. Veolia is a public utility, which is a Conditional Use in residential zones, pursuant to Section 240-13 of the Township's Land Use Ordinance and requires site plan approval.
6. A duly noticed public hearing was conducted on July 18, 2024, at which time Antonio Vincente, the Director of Engineering and the Project Manager for Veolia, and Glenn Reinetta, P.E., of Buck, Seifert & Jost, Inc, who was accepted as an expert engineer, presented sworn testimony in support of the application. The subject property is an irregularly shaped 0.137-acre lot in the R-5 Zone. The lot is fully developed with a water tank and related equipment, with a new pump station under construction to address the PFAS levels, pursuant to Site Plan Approval, SP4-2022, as set forth in Resolution SP4-2022, which was adopted October 6, 2022.
7. The Applicant is now seeking approval to construct two (2) temporary water tanks to continue the operation of the facility while the main water tank is taken offline for painting and maintenance. The subject site is limited by both size, topography and existing conditions. Therefore, the installation of the temporary water tanks requires variances for rear and front yard setbacks, distance between accessory structures, as the two tanks will be zero feet apart, and maximum building footprint for all of the accessory structures.
8. It was noted that the use is temporary, as once the main water tank is brought back into service, the temporary tanks will be removed and the site will be restored. Additionally, the water tanks serve a public purpose by providing clean drinking water, advancing the public health and safety.

{381145.DOC.2}4

9. Mr. Vicente explained the proposed process to the Board, noting that the 70,000-gallon tank is made of steel with a liner inside. The tank needs to be painted approximately every 20 years and is currently overdue. The tank requires a total rehabilitation, including the removal of the liner, addressing the structural integrity of the tank, painting the inside and outside, replacing vents and manways, etc. The tank will be painted the dark green color of the existing tank. The result will improve both the water quality and aesthetic appearance of the tank. Ultimately, the tank will be inspected by an outside agency for compliance with State Standards.
10. Veolia needs to complete the PFAS project from the prior approval, which includes demolishing the existing pump house, prior to taking the water tank offline. The temporary tanks will be installed in the location of the existing pump house, so it must be demolished first to maintain the water supply during the tank rehabilitation. The tank project is scheduled to begin in February and be completed in July of 2025.
11. Mr. Reinetta provided an overview of the site plan, noting that there are steep slopes on the east side of the property, with runoff continuing to drain to the west. There are 6 homes to west of the property on Mountain Ave. There will be minimal soil disturbance or excavating during the installation of the temporary tanks, but a trench will be dug for the temporary piping. The concrete pad will be removed, and three-quarter (3/4) inch crushed stone will be laid on filter fabric upon which the tanks will be placed.

12. The temporary tanks are a standard size in height with the diameter chosen to meet the site conditions. The building footprint is based on the size of the tanks needed to meet the water supply demands. The lack of sufficient distance between the tanks was designed to keep the area compact and the location was chosen to avoid the need to excavate the site.
13. The fencing will be removed during the installation, then temporary aluminum fencing will be installed for the temporary tanks, which will be replaced with permanent fencing when the temporary tanks are removed.
14. Material will be brought on site as needed due to the constraints on the site. Deliveries taking place between 9:00 am and 3:00 pm and construction will take place between 7:00 am and 4:00 pm. The first month of the project will be the preparation of the site and the demolition of the pump house. The painting and rehabilitation of the tank will take approximately three (3) months. The site will be restored to gravel inside the fence and grass outside the fence, the screening will be maintained.
15. The tank will be self-contained and rain-tight in a scaffolding draped with a canopy during the rehabilitation and painting. The contractors will wear personal protection equipment during the multi-layer spraying process which includes both primer and the exterior paint. The soil will be tested before and after the painting, the test results will be shared with the Township.
16. During the public portion of the meeting, members of the public raised concerns about the location of tractor trailers, construction equipment and debris, testifying that current construction has created parking issues and

{381145.DOC.2}6

debris has been left on residential properties. Due to the concerns of the neighboring property owners, the Applicant agreed to share contact information for both Veolia and the contractors.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Board determined that relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance.
 - a. Section 240-55C(2) - Maximum Front Yard Setback: 35 feet required, 8 feet existing, 9'2" approved.
 - b. Section 240-55C(4) - Maximum Rear Yard Setback: 20 feet is required, 16'1" approved.
 - c. Section 240-16A(5) - Maximum Footprint of Accessory Structure: 225 feet permitted, 410 feet approved.
 - d. Section 240-16B(1) - Minimum Distance Between Accessory Structures: 6 feet required, 0 feet approved between temporary tanks.
 - e. Section 240-16A(4) – Maximum Height of Accessory Structure: 15 feet permitted, 16.25 feet approved.
2. N.J.S.A. 40:55D-70c(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or

{381145.DOC.2}7

by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The subject property is oddly shaped, undersized, and steeply sloped creating a hardship for the Applicant to perform the maintenance required for public health and safety without violating the Township's bulk requirements. The necessary variances are related to the site conditions and the existing structures. The Applicant is working within the site constraints to conduct the painting and rehabilitation of the existing water tank to provide clean drinking water to the Township's Residents.
4. The Board determined that the benefits of permitting the bulk variances outweigh the detriments that the temporary variances may create. After construction, the site will be restored, eliminating or reducing some of the variances. The Board determined that the upgrades to the water system in consistent with the Master Plan and did not impede the Township's Zoning Ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 18th day of July, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all

{381145.DOC.2}8

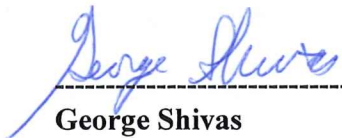
other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
6. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
7. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, whether specified herein or not, prior to seeking construction or zoning permits.
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board Secretary and the Township Engineer an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal

agency having land use jurisdiction over the development and shall supply a copy of any approvals received.

9. All terms and conditions set forth by the Planning Board shall be shown on the Site Plans within 30 days of the adoption date of this resolution. Any changes requested by outside agencies shall be incorporated into the plans prior to a preconstruction meeting that shall be held with the Board Engineer.
10. Prior to construction, including site work activity, a preconstruction meeting shall be required to include the Town's representatives, the Applicant and its engineers and contractors. Prior to said meeting, the Applicant shall have posted inspections fees in the amount of five (5) percent of the estimated cost of improvements, as prepared by the Developer's Engineer and approved by the Township Engineer and in accordance with N.J.S.A. 40: 55D-53.4.
11. The Applicant shall meet with the Board Engineer on site to review the construction process to ensure minimal impact on the nearby residents.
12. The Applicant shall test the soil before and after the tank work is completed, the results shall be provided to the Township Engineer for review.
13. The Applicant shall provide contact information for both Veolia and any contractors on site to the residential homeowners on Mountain Avenue.
14. The improvements shall not alter the current drainage patterns on the site or impact the neighboring properties.
15. The Applicant shall notify the residents on Mountain Avenue when significant equipment or trucks will be on site.

16. This Approval shall expire upon the removal of the temporary tanks and the restoration of the site.
17. The property shall be restored with additional landscaping, subject to the review and approval of the Board's Engineer or Planner, upon the completion of the site work, prior to the issuance of the Certificate of Occupancy.
18. No construction material or vehicles shall be located on the adjacent residential lots.


George Shivas

On motion of: Mr. Walsh

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Six (6): Ms. Raffay, Mayor Rubenstein, Mr. McElroy, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Zero (0)

ABSENT: Three (3): Mr. Proctor, Mr. Morytko, Mr. Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 15, 2023.

Caitlin Phillips

Caitlin Phillips, Planning Board
Secretary

Dated: 08/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{381145.DOC.2}11

In the matter of Cartridge Actuated Devices, Inc.
Case No. SP4-2024
MF#5000.110

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Use Variance**
 Front yard setback of accessory structure
 Maximum square footage of accessory
 structures
 Maximum height for accessory structures

WHEREAS, Cartridge Actuated Devices, Inc. has applied to the Planning Board of the Township of Byram seeking expansion of a non-conforming use, along with amended site plan approval, with bulk variances for premises located at 40 Old Indian Spring Road, and known as Block 362, Lot 4 and Block 226, Lot 8.01 on the Tax Map of the Township of Byram which premises are in a “R-1” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. Robert Greenbaum, Esquire represented the Applicant.

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2. The Applicant operates Cartridge Actuated Devices, Inc. on the subject property, a pyrotechnic manufacturer. The Applicant is proposing to replace a trailer with a new structure, relocate 2 existing trailers to another location on the property and construct a new building, requiring relief from Section 240-51.A, pursuant to N.J.S.A. 40:55D-70d(2), for the expansion of a non-conforming use.
3. Further relief is required, pursuant to N.J.S.A. 40:55D-70c from the following Sections of the Township's Zoning Ordinance:
 - a. Section 240-51.C.(2) – Minimum front yard setback of an accessory structure: 100 feet is required and 39 feet is proposed.
 - b. Section 240-16.B.(3) – Maximum size of accessory structures: 400 square feet permitted, 3,500 square feet proposed for Building #27 and 2,400 square feet proposed for Building #28.
 - c. Section 240-16.A.(4) – Maximum height of an accessory structure: 15 feet is permitted and 26.3 feet is proposed for Building #27.
4. The Applicant submitted the following documents for the Application for a Variance:
 - a. Amended Preliminary and Final Site Plans with Variances, prepared by Civil Engineering, Inc., dated December 11, 2015, revised through April 8, 2024, consisting of seven (7) sheets.
 - b. Architectural Plans, prepared by O'Brien Architects, Inc, dated February 24, 2024, consisting of three (3) sheets.

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- c. Certificate of Compliance from the Sussex County Division of Health, dated April 26, 2024.
 - d. Resolution for Application SP4-2016, dated November 3, 2016.
 - e. Pictures of the Fire Suppression System, four (4) total.
- 5. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated June 5, 2024.
 - b. Paul Gleitz, P.P., AICP, the Planning Board Planner, dated July 14, 2024.
- 6. The following were marked for identification:
 - a. A-1- Colorized Version of the Site Plan – Existing Conditions.
 - b. A-2 – Application to the Sussex County Division of Health.
 - c. A-3 – Colorized Version of the Site Layout Plan.
 - d. A-4 – Application to the Upper Delaware Soil Conservation District.
 - e. A-5 – Colorized Version of the Architectural Plans, Sheets 1-3.
- 7. A duly noticed public hearing was conducted on July 18, 2024, at which time Chris Seyfarth, the Process Improvement Manager, on behalf of the Applicant, along with James Glasson, PE, of Civil Engineering, Inc., Raymond O’Brien, RA, of O’Brien Architects, Inc., and Allison Kopsco, P.P. of J. Caldwell Associates, who were accepted as experts in their respective fields, presented sworn testimony in support of the application.
- 8. The subject property is a 96.66 acres parcel, with approximately 10 acres developed for the operations of Cartridge Activated Devices, who

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manufactures actuators, cable cutters, cartridges and squibs among other fire suppressant devices, fuel shutoff valves related to pyrotechnic materials use. The devices are use primarily for military, industrial and scientific uses. The remainder of the site is wooded and bifurcated by a paper street. The property sites at the terminus of Indians Springs Road and is in an isolated location within the Township. The site operates as a “campus” with multiple accessory structures that support the principal use, but no principal structure is designated.

9. The Applicant received site plan approval in 2016 for four (4) new structures that were not constructed, as well as the paving of the driveways and parking lots. The existing septic system was designed for four (4) buildings, but only one (1) building is connected to the system. There are two (2) wells on site, only three (3) buildings have water service for eyewash stations, a boiler room and restrooms. An application has been filed with the Sussex County Division of Health to confirm the adequacy of the septic system.
10. Chris Seyfarth, on behalf of the Applicant, noted that there are no parking issues on the property, Water Dogs are utilized in place of a traditional fire suppression system, and the buildings are monitored by an alarm company. The hours of operation are Monday through Thursday, from 7:00 am to 5:30 pm.
11. Referring to A-3, Mr. Glasson explained the proposed site changes, which includes the construction of Building #28, which is 39 feet from the front property line, where 100 feet is required, although there are no residences

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nearby. The single-story building will be a production building, containing two (2) offices and automated equipment for assembly.

12. There is an area where three (3) trailers are located, one (1) of which will be relocated, and two (2) which will be removed. A two (2) story structure, referred to as Building #27, will be constructed in that location, consisting of an assembly area on the first floor and offices and work benches for assembly on the second floor. The one (1) storage trailer will be relocated to the area where two (2) shipping containers are currently located to be used as storage for shipping materials. An additional existing trailer (#23) will be relocated to this area to be used for packaging and preparation.

13. Six (6) additional parking spaces will be created for company vehicles which are 8 feet by 20 feet and require waivers from Section 215-30.2C.(5)(b), as the parking stalls should be 9 feet wide. The parking lot will be restriped in compliance with the 2016 Site Plan Approval, with designated spaces in compliance with the Americans with Disabilities Act.

14. The site lighting is limited to the internal lights with five additional fixtures proposed. Two (2) pole mounted lights are proposed near the roadway at the northern and southern parts of the site at 15 feet in height. Two (2) building mounted light fixtures at 12 feet in height are proposed on Buildings #4 and #14. One (1) 15-foot-high building mounted light fixture is proposed on Building #27. A design waiver is needed from Section 215-34.B as the lighting does not comply with the minimum foot candles required, however the appropriate levels are met in the parking area. Due to the nature of the use

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of the site, and its remote location, the purpose of the lighting is pedestrian safety and the waivers are appropriate.

15. The proposed development will result in an increase of impervious coverage from 2.66% previously existing, to 2.77%, as approved in 2016, to 2.71% as currently proposed. Approval from the Upper Delaware Soil Conservation District is required.

16. Raymond O'Brien provided an overview of the architectural design for the proposed structures, and Sheets A-1, A-2 and A-3 of the Architectural Plans revised May 31, 2024 were colorized and marked as A-5 for identification. Building #27 is a 3,500 square foot building that will be 26.3 feet in height and require a variance, as 15 feet is the maximum permitted height of an accessory structure. Hardy plank siding, in earthtones, is proposed for the exterior façade, with a stone veneer on three (3) sides of the structure. The proposed roof will have an asphalt material, with a gabled area under the pitch that contains vertical siding.

17. Building #28 will contain 2,400 square feet of area, with a height of 14.89 feet in compliance with the ordinance. There will be two offices and a compressor room, built on slab with a wood construction. The exterior of the building will match the exterior of Building #27.

18. Fire suppression systems are not proposed for either structure, rather the property owner will utilize portable fire extinguishment device called Water Dogs. Mr. O'Brien opined that the proposed structures are an improvement to the prior approval and the existing conditions on site.

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19. Allison Kopsco provided a planning overview of the property and the necessary criteria for the variance relief. The witness testified that construction of new structures requires a variance, pursuant to N.J.S.A. 40:55D-70d(2) for an expansion of the pyrotechnic manufacturing, which is a non-permitted use. The property is located in the R-1 Residential Zone, and has clusters of single family and agricultural uses in the area.
20. In order for the Board to approve the expansion of the use, the Applicant must establish a Special Reason and consider the benefits of the entire application and the unique nature of what is required for the safety of the specific use. Since this use is not inherently beneficial, a reduction in the non-conformity is considered a benefit. The Applicant removing existing trailers and replacing them with buildings, while restriping the parking lot to eliminate the non-conforming parking stalls to improve the overall function and appearance of the site.
21. The proposal advances the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2, namely:
- a. Purpose A - To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare; the Applicant's operations are in an isolated area of the Township and the proposed improvements will create a safer condition and enhance the appearance and functionality of the site.

- b. Purpose G - To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens; the site is an oversized lot with a dense, natural buffer, with minimal impact to the surrounding area.

22. With regard to the negative criteria, CAD is an established business in the area, with no adverse impacts to the surrounding community. The historic use of the site is maintained, on an isolated lot, with a natural buffer. The proposed improvements are a minor expansion of the existing use.

23. With regard to whether the use is consistent with the Master Plan, the Plan discusses the need for a balance of land uses and CAD's use has minimal impact on municipal services. The expansion of the use will not impact the environment, as the buffer will be maintained and the developed area will not increase. Finally, the proposed application will maintain the historic use of a substantially sized lot, with no impact to neighbors or the environment, which is consistent with the zone scheme.

24. There was no one from the public present at the hearing for this application.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Board determined that relief can be granted pursuant to N.J.S.A. 40:55D-70d(2) from Section 240-51A of the municipal zoning ordinance to permit the expansion of the pyrotechnic manufacturing use in the R-1 Residential Zone.
2. The Applicant was able to establish a Special Reason and consider the benefits of reducing the nonconformities on site and the unique nature of what is required for the safety of the specific use. By removing existing trailers and replacing them with buildings, along with restriping the parking lot to eliminate the non-conforming parking stalls the overall function and appearance of the site will be improved.
3. The proposal advances the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2, namely:
 - a. Purpose A - To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare; the Applicant's operations are in an isolated area of the Township and the proposed improvements will create a safer condition and enhance the appearance and functionality of the site.
 - b. Purpose G - To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs

of all New Jersey citizens; the site is an oversized lot with a dense, natural buffer, with minimal impact to the surrounding area.

4. The Board determined that there would be no adverse impacts to the surrounding community, and the historic use of the site will be maintained, on an isolated lot, with a natural buffer. Finally, the Board found that the use is consistent with the Master Plan, the Zone Scheme and the need for a balance of land uses. The expansion of the use will not impact municipal services or the environment, as the buffer will be maintained and the developed area will not increase.
5. The Board determined that further relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - a. Section 240-51.C.2 – Minimum front yard setback of an accessory structure: 100 feet is required and 39 feet is approved.
 - b. Section 240-16.B.3 – Maximum size of accessory structures: 400 square feet permitted, 3,500 square feet is approved for Building #27 and 2,400 square feet is approved for Building #28.
 - c. Section 240-16.A.(4) – Maximum height of an accessory structure: 15 feet is permitted and 26.3 feet is approved for Building #27.
6. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is

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determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

7. The subject property is unique in nature, as only 10 acres of almost 100 are developed in a remote area of the Township, with little impact to the surrounding area. There are no principal structures on the property, that functions like a campus, which results in only accessory structures that are designed to meet the needs of the Applicant. The nature of the bulk variances are closely tied to the use variance.
8. Finally the Board determined that the Applicant was entitled to the following Design Waivers, which were reasonable based on the conditions on the property
 - a. Section 215-30.2C.(5)(b), as the parking stalls should be 9 feet wide, 8 feet by 20 feet approved.
 - b. Section 215-34.B as the lighting does not comply with the minimum foot candles required.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 18th day of July, 2024 that the approval of the within application be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to

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all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
5. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
6. Prior to occupancy, the owner shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
7. The Applicant shall secure any and all approvals required from any other public agency or governmental body that may have jurisdiction, whether specified herein or not, prior to seeking construction or zoning permits.

Outside agency approvals include, but are not limited to:

- a. Sussex County Planning Board
- b. Byram Township Construction Department
- c. Byram Township Fire Subcode Department

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d. Upper Delaware Soil Conservation District

8. Prior to the issuance of any construction permit, the Applicant shall file with the Board Secretary and the Township Engineer an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and shall supply a copy of any approvals received.
9. All terms and conditions set forth by the Planning Board shall be shown on the Preliminary and Final Major Site Plans within 30 days of the adoption date of this resolution. Any changes requested by outside agencies shall be incorporated into the plans prior to a preconstruction meeting that shall be held with the Township Engineer.
10. Prior to construction, including site work activity, a preconstruction meeting shall be required to include the Town's representatives, the Applicant and its engineers and contractors. Prior to said meeting, the Applicant shall have posted inspections fees in the amount of five (5) percent of the estimated cost of improvements, as prepared by the Developer's Engineer and approved by the Township Engineer and in accordance with N.J.S.A. 40: 55D-53.4.
11. If applicable, Applicant shall pay a fee of 2.5% of the equalized assessed value of the land and new nonresidential improvements, as determined by the Township's Tax Assessor, pursuant to Chapter 215, Article XIII of the Township's Ordinances, Affordable Housing Development Fees.
12. The Applicant shall comply with Chapter 201 of the Township's Ordinances with regard to submitting the appropriate information and paying the

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necessary fees, to obtain approval for sewer allocation and connection, if necessary.


George Shivas

On motion of: Mr. Walsh

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Five (5): Ms. Raffay, Mr. McElroy, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mayor Rubenstein

ABSENT: Three (3): Mr. Proctor, Mr. Morytko, Mr. Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 15, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{380241.DOC.1}14

In the matter of Nicco Brancaccio
Case No. Z27-2023
MF#5000.103

BYRAM TOWNSHIP
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
DENIAL OF APPLICATION

WHEREAS, Nicco Brancaccio applied to the Planning Board of the Township of Byram seeking *ex post facto* approval for an accessory structure in the front yard of the premises located at 22 Adair Street, and known as Block 17, Lot 19 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Planning Board of the Township of Byram, at a regularly scheduled public hearing, has made the following factual findings:

1. The Applicant is the owner and occupant of the subject property.
2. The Applicant was seeking *ex post facto* approval for an accessory structure located in the front yard, requiring the following relief from the Township’s Zoning Ordinance:

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- a. Section 240-16.B.(2) – accessory structures shall not be located in the front yard
 - b. Section 240-16.B.(4) – accessory structures shall only located in the side and rear yards
3. The Application was filed in November 28, 2023.
4. The Applicant received Notices of Violation on November 9, 2023 and February 20, 2024, but no summonses were issued.
5. The Applicant as scheduled to be heard on April 18, 2024, but the hearing was carried.
6. The Applicant was heard on May 2, 2024, when the Board requested that the shed be relocated to an area that was not along the front property line, as the Board Members determined that a hardship did not exist to justify the relief requested.
7. The application was carried to June 6, 2024, but the Applicant did not submit revised plans timely and the hearing was carried to July 18, 2024.
8. Several attempts were made throughout the process by the Board Secretary and the Zoning Officer to advise the Applicant of the need to revise the plans and appear before the Board, the Applicant was generally unresponsive.
9. The Applicant failed on appear on July 18, 2024, without requesting that the application be carried to a date certain.
10. A motion was made to Deny the application for failure to appear; said motion was seconded and approved unanimously.

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NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 15th day of August 2024 as follows:

1. The Application of Nicco Brancaccio for bulk variance relief, in connection with the premises located at 22 Adair Street, and known as Block 17, Lot 19 on the official Tax Map of the Township of Byram be and is hereby **DENIED** for failure of the Applicant to pursue an approval.
2. In order to proceed before the Board with the Application in the future, the Applicant shall be required to submit a substantially revised application with the associated fees.


George Shivas

On motion of: Mr. Walsh

Seconded by: Mayor Rubenstein

The vote on the Resolution was as follows:

AYES: Six (6); Ms. Raffay, Mayor Rubenstein, Mr. McElroy, Mr. Smith, Mr. Walsh, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Zero (0)

ABSENT: Three (3): Mr. Proctor, Mr. Morytko, Mr. Serrilli

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on August 15th, 2024.

{380707.DOCX.1}3

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 08/21/2024

Prepared by: Alyse Landano Hubbard, Esq.

{380707.DOCX.1}4



TO: Byram Township Council and Land Use Board

FROM: Paul Gleitz P.P. AICP, Township Planner

RE: New Jersey Assembly Bill A-4/S-50, Future of Affordable Housing in New Jersey

Date: August 27, 2024

On March 20th, Gov. Phil Murphy signed into law Bill A4/S50 that passed the legislature as well as other pieces of affordable housing legislation. The following description of the Bill comes from the Corrected Copy of the Legislative Fiscal Estimate dated March 6, 2024. The codified Pamphlet Law is 50 pages.

- This bill abolishes the Council on Affordable Housing, initially established by the Fair Housing Act, and establishes a process to enable a municipality to determine its own present and prospective fair share affordable housing obligation based on the formulas established in the bill, as calculated by the Department of Community Affairs.
- In advance of the fourth, 10-year round of affordable housing obligations, beginning on July 1, 2025, the bill requires the department to complete these calculations, and provide for their publication, within the earlier of seven months of the **effective date of the bill or December 1, 2024**.
- The bill permits a municipality to diverge from the Department of Community Affairs' calculations in determining its obligation as long as it adheres to the methodology established by the bill.
- In advance of the fourth round, the bill requires a municipality to adopt its obligation by binding resolution, **on or before January 31, 2025**, in order to be assured of protection from exclusionary zoning litigation through which a municipality may otherwise be compelled to permit development, when the fourth round begins.

- If the municipality meets this deadline, then the municipality's determination of its obligation would be established by default, beginning **on March 1, 2025**, as the municipality's obligation for the fourth round. However, if a challenge is filed with the Affordable Housing Dispute Resolution Program on or before **February 28, 2025**, the program would be required to facilitate a resolution of the dispute prior **to April 1, 2025**. The presence of this ongoing dispute would not change the deadline for adoption of implementing ordinances and resolutions, but the implementing ordinances and resolutions adopted prior to the resolution of the dispute may be subject to changes to reflect the results of the dispute.
- As an alternative to adopting the implementing ordinances and resolutions by the March 15 deadline, a municipality involved in a continuing dispute over the issuance of compliance certification would be permitted to adopt a binding resolution by this date to commit to adopting the implementing ordinances and resolutions following resolution of the dispute, with necessary adjustments.
- The bill requires a municipality to establish a "housing element" to encompass its obligation, and a fair share plan to meet its obligation, in advance of the fourth round, and proposes necessary changes to associated ordinances, on or before **June 30, 2025**, in order to be assured of protection from exclusionary zoning litigation.
- A municipality would be required to **submit its adopted fair share plan and housing element to the program**. The bill permits an interested party to initiate a challenge to a municipal fair share plan and housing element, if submitted through the program **on or before August 31, 2025**.
- The program would facilitate communication over the challenge, and provide the municipality **until December 31, 2025** to commit to revising its fair share plan and housing element in response to the challenge, or provide an explanation as to why it will not make all or the requested changes, or both.

- The bill requires **municipalities to adopt associated changes to municipal ordinances on or before March 15, 2026**. If a municipality fails to meet these deadlines, then the immunity of the municipality from exclusionary zoning litigation would end unless the program determines that the municipality's immunity shall be extended.
- If a municipality fails to materially adhere to any of these deadlines due to circumstances beyond the municipality's control, the bill directs the program to permit a grace period for the municipality to come into compliance with the timeline, the length of which, and effect of which on later deadlines, is to be determined on a case-by-case basis.
- After providing immunity, the bill also authorizes the program to subsequently terminate immunity under certain circumstances if it becomes apparent that the municipality is not determined to come into constitutional compliance. The municipality would still be permitted to seek immunity from exclusionary zoning litigation by initiating an action in Superior Court.
- The deadlines for subsequent 10-year rounds of affordable housing obligations would conform to the dates established in the bill for the fourth round.
- The bill provides that a municipality with compliance certification would only benefit from presumptive validity, not immunity, if an interested party is to challenge:
 - a municipality for failure to comply with the terms of its compliance certification; or
 - the program alleging that, despite the issuance of compliance certification, a municipality's fair share obligation, fair share plan, housing element, or ordinances implementing the fair share plan or housing element are in violation of the Mount Laurel doctrine.
 - The program would be made a party to and would be responsible for defending its issuance of compliance certification in, any litigation alleging that, despite the issuance of compliance certification, a municipality's fair share obligation, fair share plan, housing element, or

implementing ordinances, are not in compliance with the Mount Laurel doctrine.

- A municipality's determination of its fair share obligation, if determined to be in compliance with the bill, would have a presumption of validity in any challenge initiated through the program, before the issuance of compliance certification
- Each municipality's determination of its fair share obligation would be made through the guidance of preliminary calculations made by the Department of Community Affairs. No later than August 1 of the year prior to the year when a new round of housing obligations begins, or, for the fourth round, within seven months of the effective date of the bill or **December 1, 2024**, whichever is earlier, the bill requires the department to calculate regional need and municipal present and prospective obligations in accordance with formulas established in the bill.
- The department's calculations would be made publicly available and provided to each municipality for use in determining their present and prospective obligations.
- Municipal fair share obligations would be determined by applying the methods provided in the bill, along with the methods used by the Superior Court for the third round, to the extent that applicable methodologies are not explicitly articulated in the bill.
- Municipal present need obligations would be determined by estimating the existing deficient housing currently occupied by low- and moderate- income households within the municipality.
- Regional prospective need would next be determined, upon which to base the municipal obligation, by estimating the regional growth of low- and moderate-income households during the housing round at issue. If household change is zero or negative, the number of low- and moderate-income homes needed to

address low- and moderate-income household change in the region and the regional prospective would be zero.

- The bill establishes limitations on the use of municipal affordable housing trust fund moneys for administrative costs, attorney fees, court costs to obtain immunity from exclusionary zoning litigation, to contest the municipality's fair share obligation, or use of the trust fund moneys while a municipality does not have immunity from exclusionary zoning litigation.
- The bill authorizes a municipality to expend a portion of its affordable housing trust fund on actions and efforts reasonably related to, or necessary for, certain processes of the program, as provided in the bill. The bill requires each municipality authorized to retain and expend non-residential development fees to periodically provide the Department of Community Affairs with an accounting of all such fees that have been collected and expended.
- The bill requires the Department of Community Affairs to maintain certain affordable housing-related information on its website, including:
 - the start and expiration dates of deed restrictions;
 - residential and non-residential development fees collected and expended, including purposes and amounts of such expenditures; and
 - the current balance in the municipality's affordable housing trust funds.The bill also directs municipalities to provide the information to the department necessary to comply with this requirement

In Summary, as far as deadlines, in 2024 the Department of Community Affairs would calculate regional affordable housing need based on the methodology Judge Jacobson outlined in her March 8, 2018 landmark decision. In order for a municipality to receive immunity from "builder remedy" lawsuits for the Fourth Round, it would have to **adopt a resolution determining its fair share obligation (using the methodology) by January 31, 2025** and submit the same to the Program. **Interested parties can challenge the municipality's calculated obligation by February 28, 2025. Once the obligation is set, a municipality would have until June 30, 2025 to adopt a Housing Element & Fair Share Plan (HEFSP) to address the obligation, with interested parties having the opportunity to**

challenge such HEFSP by August 31, 2025. If a challenge is filed, **the municipality would have until December 31, 2025 to resolve any challenge** or provide an explanation as to why it will not make changes to the HEFSP. Any unresolved dispute would then go to the county Mount Laurel judges.

Additional details of the Bill include new procedures, new caps and new credits:

- Provisions related to the vacant land adjustment process where a municipality seeking such an adjustment would have to identify property likely to be redeveloped during the Fourth Round that would address at least 25 percent of its obligation.
- No more than 25 percent of the affordable housing units constructed can be age-restricted housing; at least 50 percent of the affordable housing units constructed must be family units; and at least 25 percent of the affordable housing units constructed must be rental.
- Clarification on the 1,000-unit cap.
- The control period on affordable units is now a minimum of 40 years for rental units and 30 years for for-sale units.
- The cap on the total number of age-restricted affordable housing units was increased from 25 percent to 30 percent of the affordable obligation.
- The cap on age-restricted affordable housing bonus credits was reduced from 15 percent to 10 percent.
- Bonus credits are capped at 25 percent of its prospective need obligation.
- There are no rental bonus credits.
- Some of the revised bonus credits include:
 - Special Needs Housing (one bonus credit);
 - Nonprofit Developer Housing (one-half bonus credit);
 - Transit-Oriented Affordable Housing (one-half bonus credit);
 - Age-Restricted Housing (one-half bonus credit, but only applicable up to 15 percent of all age-restricted housing built);
 - Three-Bedroom Family Housing (one-half bonus credit for family three-bedroom units in excess of UHAC's minimum number of three-bedroom units);

- Redevelopment (one-half bonus credit for affordable housing constructed on land previously developed for office, retail or commercial space);
- Extension of Rental Affordability Controls (one-half bonus credit);
- 100 percent Affordable Development (one-half bonus credit for units in a 100 percent affordable housing development where the town contributes land or funding for a minimum of 10 percent of the project cost); and
- Very Low-Income Units (one-half bonus credit for each very low-income unit above the minimum required number).

I will continue to review the legislation and provide additional guidance as the process progresses. I will be attending a workshop Wednesday, September 11 entitled "From Policy to Practice: The Fourth Round" sponsored by the NJ Chapter of the American Planning Association described as "The implementation phase of New Jersey's Fourth Round of Affordable Housing is quickly approaching. Our panel will discuss the next steps to begin the implementation phase, explore areas of interpretation in the legislation, and shape approaches to best equip communities to move efficiently toward compliance." I will report back on my findings. I will also be in contact with NJ Highlands Council staff concerning the Fourth Round, NJ Highlands Council data and technical assistance, and any grant funding available for Fourth Round Compliance.

Byram Township Planning Board
Bills for September 5 2024

Harold Pellow	DATE	AMOUNT
HP Total		\$0.00

Maraziti and Falcon	DATE	AMOUNT
Inv. 57615 General" review of lots, meeting attendance, temporary structure communications, updated checklist	8/6/2024	\$315.00
Inv. 57629 Menduni- review, attendance, resolution	8/6/2024	\$280.00
Inv. 57627 Dominach- review application	8/6/2024	\$175.00
Inv.57616 Veolia- review, attendance	8/6/2024	\$192.50
Inv. 57617 Tomahawk Lake- review letter, prepare for subcommittee meeting, attendance, communications	8/6/2024	\$315.00
Inv. 57618 Baumgarten- resolution	8/6/2024	\$157.50
Inv. 57620 Starbucks- communications, review	8/6/2024	\$87.50
Inv. 57621 Cirella- review, attendance, resolution	8/6/2024	\$367.50
Inv. 57622 Brancaccio- review, communications, resolution	8/6/2024	\$262.50
Inv. 57623 North Shore Water- review, communications	8/6/2024	\$122.50
Inv. 57624 Chamberlin- review, discussion	8/6/2024	\$70.00
Inv. 57625 CAD- review, attendance, resolution	8/6/2024	\$1,225.00
Inv. 57626 Scully- review	8/6/2024	\$52.50
Maraziti Falcon total		\$3,622.50

GRAND TOTAL		\$3,622.50
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